

The Honorable John C. Coughenour

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

KENNETH JOHN RHULE and
KENNETH WARREN RHULE,

Defendant.

NO. CR20-105

STIPULATED MOTION TO
CONTINUE TRIAL AND
PRETRIAL MOTIONS DATES

Note on Motion Calendar:
September 25, 2020

The United States of America, by and through undersigned counsel, and KENNETH JOHN RHULE and KENNETH WARREN RHULE, by and through their respective attorneys, hereby request that the Court continue the trial set in this matter, currently scheduled to begin on October 5, 2020. The parties also request that the Court vacate the current deadline for filing all pretrial motions. The parties intend to propose a new trial date after the Court has ruled upon KENNETH JOHN RHULE's Motion to Review Detention Order (Docket 61). Within 14 days of receiving the Court's decision regarding that motion, the parties will submit a proposed trial date for the Court's consideration.

This motion is made for the following reasons:

1. On August 5, 2020, Defendants KENNETH WARREN RHULE and KENNETH JOHN RHULE were both charged with conspiracy to manufacture and distribute marijuana and marijuana products in violation of 18 U.S.C. §§ 841(a)(1), 841(b)(1)(A), and 846. The indictment alleges that this conspiracy involved 1,000 kilograms or more of marijuana. If convicted, both KENNETH WARREN RHULE and KENNETH JOHN RHULE could face a mandatory minimum of 10 years imprisonment. KENNETH WARREN RHULE has also been charged with conducting an unlicensed money transmitting business in violation of 18 U.S.C. § 1960, money laundering in violation of 18 U.S.C. §§ 1956 and 2, and possessing a firearm during and in relation to a drug trafficking crime in violation of 18 U.S.C. § 924(c)(1)(1).
2. At the Defendants' arraignment, on August 20, 2020, the Court set the pretrial motions deadline for September 10, 2020, and the trial for October 5, 2020. On September 14, 2020, the Court granted the Defendants' motion to continue the pretrial motions deadline until September 17, 2020.
3. The government has been investigating this case for over two years. Counsel for KENNETH WARREN RHULE joined this case in March 2020 and counsel for KENNETH JOHN RHULE joined the case in late July 2020, shortly before the Defendants were indicted on August 5, 2020. Given the pending charges, defense counsel believes that the case is so unusual or complex that is unreasonable to expect adequate preparation for pretrial proceedings or trial within the time limits established. Defense counsel request additional time in order to avoid a miscarriage of justice. 18 U.S.C. §§ 3161(h)(7)(B)(i) & (B)(ii).
4. Relatedly, to date, the government has disclosed approximately 1.8 TB of discovery, containing over 341,000 Bates-numbered pages, along with spreadsheets and video recordings. Good cause exists to continue the trial in this case, given the immense volume of discovery produced by the government and the short amount of time that counsel for Defendants have had to review the

discovery. Defense counsel believe that additional time is necessary to fully and adequately review the discovery with their clients, as well as any and all legal and factual issues presented, along with sentencing consequences, so they can make informed and intelligent decisions on how to proceed. Despite the exercise of diligence, that cannot be achieved under the current case schedule. 18 U.S.C. §§ 3161(h)(7)(B)(ii)& (B)(iv).

5. The defense needs adequate time to assess and investigate the information disclosed. Thereafter, they may need to meet and confer with the government regarding any questions or outstanding discovery. While it is expected that the parties can resolve any discovery issues without the Court's intervention, that process cannot be completed by the current pretrial motions deadline of September 17, 2020. A continuance of the pretrial motions deadline would impact the trial date. Therefore, the parties agree that a continuance of both the motions deadline and trial is in the interests of justice, taking into account the time necessary for effective preparation and the exercise of due diligence. 18 U.S.C. §§ 3161(h)(7)(B)(i) & (B)(iv). Continuing the trial would also allow the parties time to confer about setting a reasonable case schedule going forward.
6. In sum, the additional time requested is necessary for the effective preparation by the defense, taking into account the complexity of the case, the exercise of due diligence and the interests of justice. Under the particular circumstances of this case, the interests of justice served through these requested continuances outweigh the best interest of the public and the Defendants in a speedy trial and findings to that effect are set forth in the attached proposed order.
7. Counsel for Defendants KENNETH JOHN RHULE and KENNETH WARREN RHULE join in this request. KENNETH WARREN RHULE has agreed to sign a waiver of his speedy trial rights in order to facilitate his lawyers' preparation of this case. Counsel for KENNETH JOHN RHULE was unable to contact his client in advance of filing this motion but will contact KENNETH JOHN RHULE to

1 request a speedy trial waiver as soon as possible. Counsel for KENNETH JOHN
2 RHULE and KENNETH WARREN RHULE have advised, and will advise, their
3 clients that by signing the speedy trial waiver they are waiving their rights under
4 the Sixth Amendment and the Speedy Trial Act, 18 U.S.C. §§ 3161-3174, and
5 agreeing that the period from October 5, 2020 until the new trial date, shall be an
6 excludable period of time pursuant to 18 U.S.C. § 3161(h)(7)(A). Their executed
7 waivers will be electronically filed immediately upon receipt.

- 8 8. The parties and counsel for KENNETH JOHN RHULE believe that the timing of
9 a proposed new trial date will depend, in part, on the Court's decision on
10 KENNETH JOHN RHULE's Motion to Review Detention Order and whether
11 KENNETH JOHN RHULE remains in custody. Accordingly, we ask the Court
12 allow the parties to propose a new trial date once the Court has ruled on his
13 pending Motion to Review Detention Order. The parties intend to confer and
14 propose a new trial date within 14 days after receiving the Court's order on that
15 motion.

1 The parties request that the Court strike the current trial date and pretrial motions
2 deadline. We further request that the time from the date of the entry of any order pursuant to
3 this motion and the trial date established after the Court's order is entered be excluded from
4 the time period during which the case must proceed to trial under the Speedy Trial Act.

5 Dated this 17th day of September, 2020.

6
7 Respectfully submitted,

8 BRIAN T. MORAN
9 United States Attorney

10 /s/ Marie M. Dalton
11 MARIE M. DALTON
12 Assistant United States Attorney
13 United States Attorney's Office
14 700 Stewart Street, Suite 5220
15 Seattle, Washington 98101-1271
16 Phone: 206-553-7970
17 Fax: 206-553-4073
18 E-mail: Marie.Dalton2@usdoj.gov

19 **CALFO EAKES LLP**

20 /s/ Henry C. Phillips
21 Patty A. Eakes, WSBA No. 18888
22 Henry C. Phillips, WSBA No. 55152
23 1301 Second Avenue, Suite 2800
24 Seattle, WA 98101
25 (206) 407-2200 | Phone
26 (206) 407-2224 | Fax
27 Email: pattye@calfoeakes.com
28 henryp@calfoeakes.com
Attorneys for Defendant Kenneth Warren Rhule

SKELLENGER BENDER, PS

/s/ Peter Offenbecher

Peter Offenbecher, WSBA No. 11920

1301 Fifth Avenue, Suite 3401

Seattle, WA 98101

206-623-6501 | Phone

206-447-1973 | Fax

Email: poffenbecher@skellengerbender.com

Attorney for Defendant Kenneth John Rhule

CERTIFICATE OF SERVICE

I hereby certify that on September 17, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the attorney(s) of record for the defendant(s).

/s Marwa Hirmendi

MARWA HIRMENDI

Legal Assistant

United States Attorney's Office

700 Stewart Street, Suite 5220

Seattle, Washington 98101-1271

Phone: (206) 553-4750

FAX: (206) 553-0882

E-mail: marwa.hirmendi@usdoj.gov